

REMARKS

By this amendment, claims 1-13 are canceled and new claims 14-24 are added to place this application in immediate condition for allowance. Currently, claims 14-24 are before the Examiner for consideration on their merits.

First, the claims have been replaced with those submitted in the corresponding EP application. For the Examiner's benefit, new claims 14 and 19 correspond generally to original independent claims 1 and 6. Claim 15 corresponds to original claim 2 with claims 16-18 corresponding to original claims 3-5.

Claim 20 corresponds to original claim 8 with claims 21-24 corresponding to original claims 10-13.

Second, the issue of indefiniteness for original claim 11 has been corrected in the new claims.

Third, new independent claims 14 and 19 do not contain new matter since support for the step of formation of the angular sector images was described in original claims 2, 3, 8, and 9. Moreover, these claims more clearly define the formation of an image based on angular sectors of the surface to be inspected to better distinguish the invention from the applied prior art.

Lastly, Applicant traverses the rejection in light of the submission of new independent claims 14 and 19.

In the rejection, the Examiner cites DE 20097762 to Horst to support a rejected based on 35 U.S.C. § 102(b) for claims 1-9 and 11-13. Claim 10 is rejected under 35 U.S.C. § 103(a) based on Horst on the grounds that the limitations found in claim 10 are well known and therefore obvious.

The basis for Applicant's traverse is the simple observation that Horst does not teach a fundamental aspect of the invention and one that is now found in claims 14 and 19 that relates to the angular sectors found in these claims. In making the rejection, the Examiner alleges that Horst describes a device that aims to detect faults appearing on the neck of a receptacle by using at least two light sources of different color. Referring to Figures 1-3 of Horst, the neck of the receptacle is illuminated by three concentric light beams colored red (6), green (7), and blue (8), with each illuminating a different annular sector 14, 15, and 16.

While the Examiner has asserted that the angular sectors found in claims 2, 3, 8, and 9 are found in Horst, in fact, Horst teaches illuminating annular sectors, not angular sectors as required in claims 14 and 19.

According to the invention, the area of revolution with an angular width of 360° is divided into at least three sectors (T_1 , T_2 , and T_3). In the case where the surface to be inspected is divided into three sectors, each of these has an angular reach of 120° . If four sectors were employed, the angular reach would be 90° .

According to the invention, the lighting surface S is divided into at least three angular sectors, each including a given radiation spectrum, so that at each point of the angular sectors (S_1 , S_2 , S_3) the radiation spectrum emitted is separated from the radiation spectrum emitted in the vicinity of an opposite or symmetrical point taken in relation to the axis of revolution (A), because the angular width of the sector is less than 180° .

The feature of the invention explained above eliminates light parasites who can result from opposed beams in annular light, which is the very problem faced in Horst.

These light parasites do not correspond to defects to be detected. These light parasites result from the various optical ways of beams of light passing through the wall of the receptacle.

The invention seeks to provide an optoelectronic method and device that is designed to eliminate light parasites so as to make the procedure for the inspection of receptacles a reliable one. In contrast, Horst aims to provide light sources with different lighting angles, α_1 , α_2 , α_3 in Figure 1 thereof, with a view to obtain a suitable angle of reflection of the incident beams covering all surfaces of the finish inspected.

Taking into consideration the limitations now found in claims 14 and 19, Horst cannot be said to anticipate these claims since the limitations regarding the angular sectors are missing. This leaves the Examiner with the option to use 35 U.S.C. § 103(a) and formulate a rejection based on obviousness or allow the new claims presented herein. However, any approach considering obviousness requires a reason for making such a rejection and no reason exists. To proceed in this manner would use the invention as a teaching template and such an approach cannot produce a sustainable rejection. Therefore, there is no legitimate basis to reject claims 14 and 19 under 35 U.S.C. § 103(a).

In light of the above, Horst fails to establish a *prima facie* case of anticipation or obviousness and the rejection as applied to original claims 1 and 7 is no longer appropriate for claims 14 and 19. Moreover, since these claims are patentable over the prior art, their respective dependent claims are also in condition for allowance.

Accordingly, the Examiner is requested to examine this application in light of this response and pass all pending claims onto issuance.

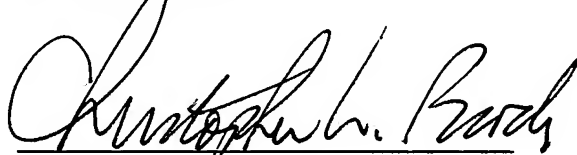
If the Examiner believes that an interview would be helpful in expediting the allowance of this application, the Examiner is requested to telephone the undersigned at 202-835-1753.

Again, reconsideration and allowance of this application is respectfully requested.

The above constitutes a complete response to all issues raised in the Office Action dated October 14, 2008.

Applicant respectfully petition for a one month extension of time and a check in the amount of \$65.00 is attached herewith. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
CLARK & BRODY

A handwritten signature in black ink, appearing to read "Christopher W. Brody", written over a horizontal line.

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